

## EPA Administrator Pruitt Retains Records of Decision Authority Under Recent Revisions

JUNE 18, 2018

Before May 2017, the EPA's assistant administrator for the Office of Land and Energy Management (OLEM) and regional administrators reserved final decision making authority to sign off on Superfund cleanup remedies that cost more than \$50 million under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

This reservation of authority changed on May 9, 2017, when EPA Administrator Scott Pruitt issued a [memorandum](#) revising the delegation of authority. In the memorandum, Administrator Pruitt states that authority to select remedies estimated to cost \$50 million or more previously delegated to the OLEM assistant administrator and regional administrators is now retained by the EPA Administrator. By revising the delegation of authority, the Administrator aims to accelerate remediation and revitalization of contaminated sites while promoting accountability and consistency in selected remedies.

Now, the Administrator's authority under CERCLA extends to: 1) consulting with agencies, departments, and instrumentalities regarding investigations and studies of federal facilities, 2) reviewing plans for and results of such investigations and studies, 3) selecting remedial action when the estimated cost of remedy exceeds \$50 million, and 4) determining that remedial investigations and feasibility studies or remedial action will be done properly at a federal facility by another potentially responsible party.

On April 26, 2018, Administrator Pruitt issued an additional memorandum, clarifying the Administrator's role when making decisions regarding clean up under CERCLA. The recent memorandum directs the OLEM assistant administrator and regional administrators to coordinate and consult with Administrator Pruitt's office early on when developing records of decision or explanations of significant differences if the remedy is expected to be greater than \$50 million. It also directs the OLEM assistant administrator and regional administrators to coordinate and consult with Administrator Pruitt's office when developing non-time critical removal actions to exceed \$50 million. Following this consultation, Administrator Pruitt will determine whether to sign or delegate the authority to sign the records of decision, explanations of significant differences, or non-time critical removal actions.

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## Author

Emily Kath - Summer Associate

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Eleni Kouimelis

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